

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

POLYMER INDUSTRIES, LLC,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO.: 5:22-cv-00337-MHH
)	
COVENANT TRANSPORT SOLUTIONS, LLC,)	
)	
Defendant / Third-Party Plaintiff,)	
)	
vs.)	
)	
S&T TRANSPORT, INC.)	
)	
Third-Party Defendant.)	

**COVENANT TRANSPORT SOLUTIONS, LLC’S
THIRD-PARTY COMPLAINT**

COMES NOW Defendant/Third-Party Plaintiff, Covenant Transport Solutions, LLC (“Third-Party Plaintiff” or “Covenant”) and, pursuant to Rule 14, Federal Rules of Civil Procedure, submits the following Third-Party Complaint:

PARTIES

1. Covenant Transport, Solutions, LLC is a limited liability company organized under the laws of the state of Tennessee with its principal place of business in Chattanooga, Tennessee.

2. Third-Party Defendant S&T Transport, Inc. is a corporation organized under the laws of the state of New York with its principal place of business in Illinois.

VENUE AND JURISDICTION

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. 1332. Complete diversity of citizenship exists between the parties. Additionally, the amount in controversy in this action exceeds \$75,000, exclusive of interest and costs.
4. The alleged incident made the basis of this action occurred in Jackson County, Alabama. Therefore, venue is proper in this Court pursuant to 28 U.S.C. 1391 because a substantial part of the alleged acts and omissions giving rise to this action occurred in the Northern District of Alabama, Northeastern Division.

FACTUAL BACKGROUND

5. Polymer Industries, LLC (“Polymer”) filed a Complaint in the Circuit Court of Jackson County, Alabama on or about January 20, 2022. According to the Complaint, on or about December 16, 2020, Polymer contracted with Covenant to provide transportation services for the delivery of certain product manufactured by Polymer to its ultimate customer.

6. Polymer's Complaint goes on to allege that, on December 16, 2020, a driver performing the transportation services "failed to exercise reasonable care in the operation of its motor vehicle while on the premises of [Polymer], causing it to collide with the utility pole and structures of [Covenant] at its manufacturing location in Henagar, Jackson County, Alabama." According to Polymer, the incident resulted in damages to Polymer.
7. The driver and company providing the transportation services described in Polymer's Complaint was an employee and/or agent of Third-Party Defendant S&T.
8. Furthermore, at the time of the alleged incident, Covenant and S&T were parties to a Broker – Carrier Agreement ("Agreement"), and the transportation services being provided by S&T and described in Polymer's Complaint were being provided pursuant to the Agreement.
9. The Agreement contained the following relevant provisions:

[. . .]
8. **Indemnification**: Carrier shall defend, indemnify, and hold Broker, Customers, and their respective affiliated companies, officers, directors, employees, agents, representatives, successors and assigns (Collectively the "Indemnitees") harmless from and against, and shall pay and reimburse, all loss, damages, claim, fine, penalty, assessment, cost or expense (including reasonable attorney's fees) arising out of or related to the performance or breach of the Agreement by Carrier, its employees or independent contractors working for Carrier (collectively

the “Claims”), including, but not limited to, Claims for or related to personal injury (including death), property damage, and Claims related to or arising out of Carrier’s possession, use, maintenance, custody or operation of the equipment used for providing transportation services except to the extent such claims are caused by the negligent or wrongful conduct of the Indemnatee otherwise seeking protection pursuant to this provision, whether or not Carrier has insurance for such loss, damages, claim, fine, penalty, assessment, cost or expense

[. . .]

**COUNT ONE – BREACH OF CONTRACT FOR
DEFENSE AND INDEMNIFICATION**

10. The alleged incident described in Polymer’s Complaint was caused by S&T’s agent/employee. Furthermore, the transportation services being provided by S&T at the time of the alleged incident were subject to the Agreement.
11. Thus, as set forth above, any damages suffered by Polymer were the result of S&T’s agent/employee’s acts or omissions.
12. As a result of the allegations of Polymer’s Complaint, the Indemnification provisions of the Agreement are implicated, and Covenant is entitled to defense and indemnity for the allegations of Polymer’s Complaint.
13. Stated differently, S&T has a contractual obligation to defend, indemnify, and hold Covenant harmless from and against, and shall pay and reimburse, all loss, damages, claim, cost or expense

(including reasonable attorney's fees) arising out of or related to the incident and allegations contained in Polymer's Complaint.

14. To date, S&T has failed to provide a defense to Covenant, or to otherwise agree to indemnify or hold Covenant harmless in this matter and is therefore in breach of the Agreement.

WHEREFORE, PREMISES CONSIDERED, Covenant prays for a judgment in its favor, including, but not limited to, the costs to defend this matter, attorney's fees, expenses, and indemnification, taxing the costs of this matter to S&T.

Respectfully submitted this the 7th day of April, 2022.

/s/ Jordan D. Watson
LEA RICHMOND (ASB-8479-L74R)
JORDAN D. WATSON (ASB-2370-O61W)
Attorneys for Third-Party Plaintiff

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REQUEST FOR CERTIFIED MAIL SERVICE BY CLERK

Attorney for Third-Party Plaintiff hereby requests that the Clerk serve the following Third-Party Defendant by certified mail, return receipt requested:

S&T TRANSPORT, INC.
c/o Alacrity Legal Services
61 Saint Joseph Street, Suite 1100
Mobile, Alabama 36602

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of April, 2022, I have served a copy of the above and foregoing on counsel for all parties by:

- ☐ Facsimile transmission;
- ☐ Hand Delivery;
- ☐ Placing a copy of same in the United States Mail, properly addressed and first class postage prepaid to; and/or
- ☒ Using the Alafile or CM/ECF system which will send notifications of such to the following:

John F. Porter, III, Esq.
C. Claire Porter, Esq.
The Porter Law Group
123 E. Laurel Street
Scottsboro, Alabama 35768

/s/ Jordan D. Watson
OF COUNSEL